

Decision 03-12-041 December 18, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.	Application 00-11-038 (Filed November 16, 2000)
Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)	Application 00-11-056 (Filed November 22, 2000)
Petition of The Utility Reform Network for Modification of Resolution E-3527.	Application 00-10-028 (Filed October 17, 2000)
Application of Pacific Gas and Electric Company For Authority to Establish Post-Transition Period Electric Ratemaking Mechanisms.	Application 99-01-016 (Filed January 15, 1999)
Application of San Diego Gas & Electric Company For Authority to Implement Post Rate Freeze Ratemaking Mechanisms.	Application 99-01-019 (Filed January 15, 1999)
Application of Southern California Edison Company to (1) Propose a Method to Determine and Implement the End of the Rate Freeze; and (2) Propose Ratemaking Mechanism Which Should Be In Place After The End of The Rate Freeze Period.	Application 99-01-034 (Filed January 15, 1999)

**DECISION DISMISSING CONSIDERATION OF TURN
INTERVENOR COMPENSATION CLAIM**

The Utility Reform Network (TURN) filed a request for intervenor compensation under Sections 1801-1812 of the California Public Utilities Code on November 22, 2002. An amended request was filed on November 25, 2002. The request pertains to legal fees and costs incurred in connection with judicial review of Decision (D.) 99-10-057, D.00-03-058, and D.01-03-082 issued by the Commission. The expenses have been incurred in two federal court proceedings: (1) *Southern California Edison v. Lynch*, No. CV-00-12056-RSWL (C.D.Cal. filed Nov. 13, 2000), 307 F.3d 794 (9th Cir. 2002); and (2) *PG&E v. Lynch*, No. C-01-03023 VRM (N.D. Cal. filed Aug. 6, 2001). On February 24, 2003, the Chief Administrative Law Judge issued a ruling deferring consideration of the compensation request until the proceedings for which compensation is sought were concluded.

With final determinations in these cases, the Commission will be in a better position to evaluate the intervenor compensation request pursuant to Sections 1801-1812 of the Public Utilities Code and the criteria set forth in the Commission's previous decisions. Therefore, after consultation with counsel for TURN, we have concluded that the most appropriate course of action at this time is to deny the pending request for compensation without prejudice and to exercise our discretion to await final determinations on these federal court cases before evaluating the instant request. TURN may file a new claim in the future when the courts have rendered final determinations in the cases at issue.

Waiver of Comments on Draft Decision

Pursuant to Rule 77.7(f)(6), the otherwise applicable 30-day period for public review and comment was waived. On December 1, 2003, Southern California Edison Company (SCE) filed a Motion for Leave to File Comments and attached its comments. On December 2, 2003, TURN filed in support of

SCE's Motion and incorporated its comments into its response. We grant the Motion.

Comments on Draft Decision

SCE argues in its comments that the draft decision sets a new standard related to the timing of intervenor compensation awards for work performed in federal court proceedings arguing that decisions must await final determinations under this standard. SCE argues that using this "new" standard, certain past awards are for decisions and federal court work that is not yet final and therefore should be rescinded. TURN comments that SCE's interpretation is unreasonable and is an overly broad reading of the draft decision. TURN argues that the draft decision is simply intended to dismiss a pending claim without prejudice. TURN suggests clarifying language to resolve this ambiguity that SCE has raised.

The intent of the draft decision was simply to dismiss a pending claim without prejudice, not to establish a new standard for timing of claims for federal court work. As it relates to this claim, we are exercising our discretion to await the final determination in the federal court work, but we need not do so. In D.97-10-026, we concluded that the pendency of an application for rehearing of a decision, should not preclude a customer from requesting, and potentially receiving compensation for its substantial contribution to that decision. We see no reason to distinguish efforts related to judicial review of Commission decisions that happens to occur in the federal court to any other appellate review that might take place. We have added language to clarify our intent.

Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner and Christine M. Walwyn is the assigned Administrative Law Judge (ALJ) in Application (A.) 00-11-038,

A.00-11-056 and A.00-10-028. Susan P. Kennedy is the Assigned Commissioner and Angie K. Minkin is the assigned ALJ in A.99-01-016, A.99-01-019, and A.99-01-034.

Finding of Fact

Final determinations have not been reached in the federal court cases for which TURN claims compensation in its November 22, 2002 (as amended on November 25, 2002) request for compensation.

Conclusion of Law

With final determinations in these federal court cases, the Commission will be in a better position to evaluate TURN's compensation request pursuant to Sections 1801-1812 of the Public Utilities Code.

O R D E R

Therefore, **IT IS ORDERED** that:

1. The Utility Reform Network's November 22, 2002 (as amended on November 25, 2002) request for intervenor compensation is denied without prejudice to future refiling.
2. This decision is effective today.

Dated December 18, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

Compensation Decision Summary Information

Compensation Decision(s):	D0312041
Contribution Decision(s):	D9910057, D0003058, D0103082
Proceeding(s):	A0011038, A0011056, A0010028, A9901016, A9901019, A9901034
Author:	ALJ Walwyn, ALJ Minkin
Payer(s):	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Reason Change/Disallowance
The Utility Reform Network	11/22/02	\$589,492.79	0	premature

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
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